

Introduced by Senator SotoFebruary 18, 2003

An act to amend Sections 20776 and 21037 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 268, as introduced, Soto. Public employees' retirement: service credit payments.

Under the Public Employees' Retirement Law, retirement benefits are calculated in part based on years of creditable service. Under that law, members may elect to purchase service credit for various types of public service, upon payment of additional contributions. If a member dies under circumstances in which a special death benefit is payable, or if a member becomes subject to retirement for industrial disability, and the member has not paid the entire amount for a service credit purchase, the balance remaining unpaid is generally payable immediately. However, the survivor of a member who died with a special death benefit payable and had authorized payroll deductions may continue those deductions from the survivor allowance in lieu of the lump-sum payment otherwise required.

This bill would, subject to certain limitations, authorize members who have elected to purchase service credit on an installment basis to prospectively discontinue the payments if the member becomes disabled and the service credit purchase will not result in a higher retirement allowance than the member's disability retirement allowance. The bill would also permit the survivor of a member who was making service credit purchase payments on an installment basis, and died with a special death benefit payable to prospectively discontinue making payments for the member's service credit purchase,



if the service credit purchase would not increase the survivor's allowance and if various conditions are satisfied. The bill would also make related changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20776 of the Government Code is
2 amended to read:

3 20776. (a) If a basic death benefit becomes payable before
4 the payment of the total amount the member elected to pay under
5 any election with respect to normal contributions, arrears
6 contributions, absences, or public service credit permitted under
7 this part, the member's entire compensation, or the service upon
8 which that total amount was based, as the case may be, shall be
9 included in the computation of the portion of the death benefit that
10 is provided in subdivision (b) of Section 21532, and the unpaid
11 balance of the total amount shall not be paid to this system, nor
12 shall it be included in the member's accumulated contributions
13 that constitute a part of the basic death benefit.

14 (b) Any balance of any total amount remaining unpaid at the
15 death of the member on account of whom a special death benefit
16 is payable or at the retirement of a member for industrial disability
17 *may be subject to Section 21037 when payment of the balance*
18 *would not increase the allowance payable. When the balance of the*
19 *amount remaining unpaid would increase the allowance payable,*
20 *the balance* shall become due and payable immediately, except
21 that the survivor of a member who died under circumstances under
22 which a special death benefit is payable and who had authorized
23 payroll deductions may elect to continue those deductions from the
24 survivor allowance in lieu of the lump-sum payment otherwise
25 required. If the balance is not paid, the portion of the unpaid
26 amount representing contributions on compensation earned in the
27 membership applicable to the member at the time of injury
28 resulting in death or disability shall be deducted from the benefit
29 otherwise payable and this system shall be discharged from any
30 liability for any annuity or benefit with respect to any remainder
31 of the unpaid contribution.



1 (c) Any balance of the total amount remaining unpaid at the
2 time of retirement for service or ordinary disability, or at death,
3 with respect to which a benefit is payable under Section 21546,
4 *may be subject to Section 21037 when payment of the balance*
5 *would not increase the allowance payable. When the balance of the*
6 *amount remaining unpaid would increase the allowance payable,*
7 *the balance* shall become due and payable immediately, except
8 that the survivor of a member who died under circumstances under
9 which a benefit under Section 21546 is payable and who had
10 authorized payroll deductions may elect to continue those
11 deductions from the survivor allowance in lieu of a lump-sum
12 payment of the balance due. If the balance is not paid, the service
13 credit included in the election shall be reduced proportionately and
14 any service credit dependent on completion of payments
15 eliminated for purposes of computing the allowance but not for
16 purposes of determining entitlement to an allowance.

17 (d) Notwithstanding any provision of subdivision (b) or (c), a
18 member who retires before payment of the total amount which he
19 or she elected to pay, may elect to pay the balance due, or the total
20 amount if no payroll deductions had been made prior to retirement,
21 by deductions from his or her retirement allowance equal to those
22 which the member authorized as payroll deductions. In that case,
23 service credit included in the election shall not be reduced, nor
24 shall any prior service dependent on completion of payments be
25 eliminated for purposes of computing the allowance. Any balance
26 of the total amount remaining unpaid upon the death of the
27 member shall be treated in the same manner as unpaid balances are
28 treated if a special death benefit is payable, except that the survivor
29 of a retired member who had authorized deductions from his or her
30 retirement allowance in accordance with this subdivision, and who
31 is eligible for a monthly allowance, may elect to continue those
32 deductions from the survivor's allowance in lieu of the lump-sum
33 payment otherwise required.

34 (e) Interest paid with respect to normal contributions, arrears
35 contributions, absences, or public service credit permitted under
36 this part, prior to date of retirement or death of the member, shall
37 be credited to the member's individual account. Interest paid after
38 the date of retirement or death of the member shall be credited to
39 the retirement fund pursuant to Section 20174.



1 SEC. 2. Section 21037 of the Government Code is amended
2 to read:

3 21037. Notwithstanding any other provision of law, ~~a local~~
4 *the following shall apply:*

5 (a) A member who has elected to receive credit for service by
6 contributing in installments and who ~~has been retired~~ *retires* for
7 industrial disability between January 1, 1979, and January 1, 1984,
8 ~~shall be refunded without interest all lump-sum payments made~~
9 ~~within 30 days of retirement on account of the elective service.~~
10 ~~Other local members on or after January 1, 2004, when the~~
11 ~~election for service credit does not increase the member's~~
12 ~~allowance payable, may elect to cancel the election installments~~
13 ~~prospectively from the effective date of their retirement for~~
14 ~~industrial disability.~~

15 ~~This section shall not apply to any contracting agency nor to the~~
16 ~~employees of any contracting agency unless and until the agency~~
17 ~~elects to be subject to this section by amendment to its contract~~
18 ~~made in the manner prescribed for approval of contracts, except~~
19 ~~that an election among the employees is not required or, in the case~~
20 ~~of contracts made after January 1, 1984, by express provision in~~
21 ~~the contract making the contracting agency subject to this section.~~
22 ~~The amendment, or contract provision, may provide that this~~
23 ~~section applies with respect to all of the agency's active and retired~~
24 ~~local members who retire, or retired, directly from service for such~~
25 ~~agency without intervening employment. The member's election~~
26 ~~may be received by the system no more than 30 days after the date~~
27 ~~on which the member's retirement for disability is approved. The~~
28 ~~effective date of the member's election shall be the effective date~~
29 ~~of the member's retirement for disability. No refund of~~
30 ~~contributions paid in installments prior to the effective date of the~~
31 ~~member's election may be payable to a member or retired member~~
32 ~~as a result of an election made by a member pursuant to this~~
33 ~~section.~~

34 (b) A member's election pursuant to this section shall be void,
35 and installment payments shall resume, upon a member's
36 reinstatement from retirement for disability. The remaining
37 balance due shall be recalculated to include interest during the
38 disability retirement period.

39 (c) On or after January 1, 2004, the survivor of a member who
40 elected to receive credit for service by contributing in installments,

1 *when the survivor is eligible to receive an allowance subject to*
2 *Section 21541, may elect to cancel the installments prospectively*
3 *when the election for service credit does not increase the survivor's*
4 *allowance payable. The survivor's election shall be received by the*
5 *system no more than 30 days after the member's date of death. The*
6 *effective date of the survivor's election shall be the member's date*
7 *of death. No refund of contributions paid in installments prior to*
8 *the member's date of death shall be payable as a result of an*
9 *election made by a survivor pursuant to this section.*

10 *(d) A survivor's election pursuant to this section shall be void,*
11 *and installment payments shall resume, upon a determination that*
12 *the death was not industrial, following payment of a temporary*
13 *Special Death Benefit allowance, provided that the survivor is then*
14 *entitled to a monthly allowance under Section 21546, 21547,*
15 *21547.7, or 21548. The remaining balance due shall be*
16 *recalculated to include interest during the temporary Special*
17 *Death Benefit period.*

18 *(e) A member who retired for disability prior to January 1,*
19 *2004, or the survivor of a deceased disability retiree who began*
20 *receiving a postretirement death benefit allowance prior to*
21 *January 1, 2004, or the survivor of a member who began receiving*
22 *an allowance subject to Section 21541 prior to January 1, 2004,*
23 *may elect to cancel installments prospectively when the election*
24 *for service credit does not increase the allowance payable. The*
25 *effective date of the election shall be the date that the election is*
26 *received by this system. No refund of contributions paid in*
27 *installments prior to the effective date of the election may be*
28 *payable pursuant to this section.*

